

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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|--------------------|---|---------------------------|
| ALACRITECH, INC., | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | No. 2:16-CV-00693-RWS-RSP |
| | § | (LEAD CASE) |
| CENTURYLINK, INC., | § | |
| | § | |
| Defendant. | § | |

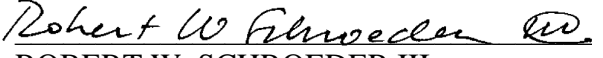
ORDER ADOPTING

The Court referred the above-entitled and numbered civil action to United States Magistrate Judge Roy S. Payne pursuant to 28 U.S.C. § 636. Now before the Court is Judge Payne’s Report and Recommendation (Docket No. 340), which recommends the Court deny Tier 3, Inc.’s, Savvis Communications Corp.’s, and CenturyLink Communications, LLC’s (together, “CenturyLink”) Motion to Dismiss Alacritech’s Indirect Infringement Claims Under Fed. R. Civ. P. 12(b)(6) (Docket No. 44).

No objections to the Report and Recommendation were filed within the prescribed objection period. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Alacritech has sufficiently pleaded facts that CenturyLink had knowledge of the Asserted Patents such that CenturyLink's motion to dismiss pre-suit indirect infringement claims should be denied. Alacritech has also sufficiently alleged that CenturyLink had specific intent to induce infringement, and that CenturyLink's technology has no substantial non-infringing uses.

Therefore, the Court **ADOPTS** the Report and Recommendation (Docket No. 340) as the findings and conclusions of this Court. CenturyLink's Motion (Docket No. 44) is **DENIED**.

SIGNED this 22nd day of September, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE